

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

H.B.,)	CIVIL ACTION FILE
)	
Plaintiff,)	NO. 1:22-cv-01181-JPB
)	
v.)	
)	
RED ROOF INNS, INC., <i>et al.</i> ,)	
)	
Defendants.)	

**BRIEF IN SUPPORT OF RRI DEFENDANTS' MOTION TO SEAL
OPPOSITION AND FOR LEAVE TO FILE UNDER SEAL**

Defendants Red Roof Inns, Inc., FMW RRI I, LLC, and RRI West Management, LLC (RRI Defendants) ask this Court to seal the Opposition to Plaintiff's Motion to Exclude Evidence of Other Sexual Behavior Under Federal Rule of Evidence 412.¹ The Opposition references information, documents, and testimony that is subject to a protective order and that must be sealed und Rule 412(c). [ECF No. 8 and ECF No. 76].² The topics include confidential information

¹ The Advisory Notes for Fed. R. Evid. 412 states: "All papers connected with the motion must be kept and remain under seal during the course of trial and appellate proceedings unless otherwise ordered."

² ECF 8 orders that the Plaintiff's identities shall be kept confidential, while ECF 76 protects "not only Discovery Materials but also (i) any information extracted from Discovery Material; (ii) all copies, excerpts, summaries or compilations of Discovery Material; and (iii) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Discovery Material."

and personal identifying information. These filings should be sealed to protect this privileged information and to ensure that no party faces prejudice or harm.

I. Law & Argument

A party seeking to have material sealed can overcome the common-law right of access by a showing of good cause where there is a “sound basis or legitimate need to take judicial action.” *In re Alexander Grant & Co. Litig.*, 820 F.2d 352, 365 (11th Cir. 1987). Good cause “is established by the moving party when disclosure will cause the party to suffer a clearly defined and serious injury.” *NXP B.V. v. Research In Motion, Ltd.*, No. 6:12-CV-498-ORL-22TBS, 2013 WL 4402833, at *2 (M.D. Fla. Aug. 15, 2013). A good cause determination “requires balancing the asserted right of access against the other party's interest in keeping the information confidential.” *Romero v. Drummond Co.*, 480 F.3d 1234, 1245 (11th Cir. 2007). Essentially, good cause exists where “[a] party’s privacy or proprietary interest in information ... overcomes the interest of the public in accessing the information.” *Id.*; *Crea v. Krzyzanski*, No. 1:18-CV-00861-JPB, 2020 WL 12214695, at *1 (N.D. Ga. June 19, 2020). This burden is met.

This Court has already granted protective orders for any information that includes “confidential personal information of the Parties” and any information about Plaintiff’s identity. *See* Doc. 8 and 76. This Opposition contains information about the Plaintiff’s identity as well as “Confidential Information.” This Court

should apply the same protections given to other filings that contain this information and testimony and permit RRI Defendants to seal the referenced document.

II. Conclusion

For these reasons, the RRI Defendants ask this Court to allow it to file under seal the Opposition to Plaintiff's Motion to Exclude Evidence of Other Sexual Behavior under Federal Rule of Evidence 412.

Dated: October 28, 2024

Respectfully submitted,

/s/ Marcella C. Ducca

Marcella C. Ducca (Ga Bar No.
115079)

Brandon D. Cox (Ga Bar No. 832025)

GREENBERG TRAURIG LLP

Terminus 200

3333 Piedmont Road NE, Suite 2500

Atlanta, GA 30305

Telephone: 678.553.2100

duccam@gtlaw.com

coxb@gtlaw.com

Sandra J. Wunderlich (pro hac vice)
TUCKER ELLIS LLP
100 South Fourth Street, Suite 600
St. Louis, MO 63102-1822
Telephone: 314.256.2550
Facsimile: 314.256.2549
sandra.wunderlich@tuckerellis.com

Chelsea Mikula (pro hac vice)
Joseph A. Manno (pro hac vice)
Elisabeth C. Arko (pro hac vice)
Emily R. Grace (pro hac vice)
TUCKER ELLIS LLP
950 Main Avenue, Suite 1100
Cleveland, OH 44113-7213
Telephone: 216.592.5000
Facsimile: 216.592.5009
chelsea.mikula@tuckerellis.com
joseph.manno@tuckerellis.com
elisabeth.arko@tuckerellis.com
emily.grace@tuckerellis.com

*Attorneys for Defendants Red Roof Inns, Inc.,
FMW RRI I, LLC, and RRI West
Management, LLC*

RULE 7.1D CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D) of the United States District Court of the Northern District of Georgia, the undersigned certifies that the submission to the Court was computer-processed, double-spaced between lines, and used Times New Roman font of 14-point size.

Dated: October 28, 2024

/s/ Marcella C. Ducca
Marcella C. Ducca

*Attorneys for Defendants Red Roof Inns,
Inc., FMW RRI I, LLC, and RRI West
Management, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2024, a copy of the forgoing was filed electronically. Service of this filing will be made pursuant to Civ. R. 5(b)(2)(e) through this Court's electronic filing system. Parties may access the filing through the Court's system.

Dated: October 28, 2024

/s/ Marcella C. Ducca
Marcella C. Ducca

*Attorneys for Defendants Red Roof Inns,
Inc., FMW RRI I, LLC, and RRI West
Management, LLC*